

Domestic Violence Legislative Package: Court Issues January 2002

A package of 26 bills aimed at reducing domestic violence in Michigan was recently passed by the legislature and approved by the Governor. This document provides an overview of the entire package (along with public act numbers and corresponding bill numbers), an account of some of the implementation steps undertaken by the State Court Administrative Office, and a list of some of the issues for courts coming out of the package.

New Domestic Violence Public Acts

The new laws in the domestic violence package (2001 Public Acts 187 through 212) make changes in a variety of areas. Several of the public acts concern personal protection orders; they address elements of their issuance, of their service, of individuals' arrest upon alleged violation, and of court reporting upon adjudication of violation charges. Several of the others aim to ensure that protection orders issued in other states enjoy full faith and credit in Michigan. Other changes include requiring that friend of the court employees receive training on the dynamics of domestic violence, and expanding the notion of domestic relationship to include a current or former dating relationship. Additional issues addressed in the package concern the sealing of court records, law enforcement reporting of domestic-violence-related crimes, and the issuance of interim bond to persons held for domestic assault.

Most of the new acts are effective April 1, 2002; four of the acts are not effective until October 1, 2002. Below are lists of the public acts (with bill numbers identified) classed by effective date. Full text of any of these acts is available on the Michigan Legislature website (www.michiganlegislature.org) by searching under the appropriate bill number.

Effective April 1, 2002

187 (SB 478)	188 (SB 479)	189 (HB 5281)	190 (SB 723)
194 (HB 5304)	195 (HB 4855)	196 (HB 5273)	197 (HB 5275)
198 (HB 5276)	199 (HB 5278)	200 (HB 5299)	201 (HB 5300)
202 (HB 5303)	205 (SB 725)	206 (SB 729)	207 (SB 731)
208 (SB 735)	209 (SB 753)	210 (SB 754)	211 (SB 757)
212 (SB 758)			

Effective October 1, 2002

191 (HB 5271) 192 (HB 5280) 193 (SB 736) 203 (SB 721)
204 (SB 722)

Implementation Steps Taken by SCAO

- SCAO has apprised the Family Division Joint Rules Committee of the potential need for court rule amendments arising out of the domestic violence package. Potential rule amendments will be considered at the committee's next meeting in the Spring.
- The domestic violence package also raises potential court forms issues. The Michigan Court Forms Committee will meet in March and will consider forms changes arising from the package.
- SCAO is working with relevant state agencies (for example, Michigan State Police, Prosecuting Attorneys Association of Michigan) to facilitate implementation of relevant acts.
- Some of the acts in the package have implications for court training and education. The Michigan Judicial Institute (MJII) plans for training and education needs. Initiatives include:
 - A Domestic Violence Summit will be held March 26 & 27 in Lansing, which will include updates and workshops on the new laws;
 - The Annual Conference of the Michigan Probate Judges Association, the training for which MJII is helping coordinate, may include educational sessions on relevant aspects of the new legislation;
 - Future judicial training covering domestic violence issues will include information on the new laws;
 - The future juvenile officer training will include instruction on changes in minor PPO procedure;
 - Benchbooks affected by the new laws, including those devoted to domestic violence and juvenile delinquency, will include relevant changes when updated. Timetables for updates have not been determined yet.

Specific Issues for Courts

1. Criminal History Reporting. Courts will be required to report to State Police, as part of criminal history reporting, all final dispositions on adult and minor PPO criminal contempt actions. [MCL 769.16a(1); PA 204] Courts will also be required to report to the State Police, as part of criminal history reporting, all final dispositions on misdemeanor cases in which the appropriate court was notified that fingerprints were forwarded to State Police. [MCL 769.16a(1); PA 204] Effective 10/1/02

2. Domestic Assault. The crimes of domestic assault and aggravated domestic assault now include reference to dating relationships. [MCL 750.81(2), 750.81a(2); PA 190] A dating relationship is defined as frequent, intimate associations primarily characterized by the expectation of affectional involvement, not including a casual relationship or an ordinary fraternization between two individuals in a business or social context. [MCL 750.81(6), 750.81a(4); PA 190] Added to the list of previous convictions allowing for enhanced punishments are convictions under relevant assault statutes from other states. [MCL 750.81(3c), 750.81a(3c); PA 190] Effective 04-01-02

3. Sealing Court Records. When considering a motion to seal court records in a civil or criminal matter, if the motion involves an allegation of domestic violence, the court shall consider the safety of any alleged victim or potential victim of the domestic violence. [MCL 600.2972; PA 205] Effective 04-01-02

4. Interim Bond. An individual now shall be held until he or she can be arraigned or have interim bond set by a judge or district court magistrate if the defendant has been arrested for domestic assault or aggravated domestic assault. [MCL 780.582a; PA 198] If a judge or district court magistrate sets interim bond for an arrest under domestic assault or aggravated domestic assault, the judge or magistrate shall consider and may impose the condition that the person released shall not have or attempt to have contact of any kind with the victim. [MCL 780.582a(2); PA 198] Effective 04-01-02

5. Issuance of PPO against stalking. Courts must now state in writing the specific reasons for issuing a PPO against stalking. [MCL 600.2950a(4); PA 196] Effective 04-01-02

6. Full Faith and Credit for Foreign Protection Orders.

- A foreign protection order (FPO) is defined as an injunction or other order issued by a court of another state, Indian tribe, or United States territory for the purpose of preventing a person's violent or threatening acts against, harassment of, contact with, communication with, or physical proximity to another person. [MCL 600.2950h(a); PA 206] Effective 04-01-02

- The family division now has clear jurisdiction to conduct contempt proceedings upon a violation of a FPO. [*MCL 764.15b(6)*; *PA 209*]
- Under the Juvenile Code, the family division now has clear jurisdiction over proceedings to enforce valid FPOs issued against minors. [*MCL 712a (2)(h)*; *PA 211*]
- A FPO is valid if (a) the issuing court had jurisdiction over the parties and subject matter under the laws of the issuing state, tribe or territory, and (b) reasonable notice and opportunity to be heard is given to the respondent sufficient to protect the respondent's right to due process. [*MCL 600.2950i(1)*; *PA 206*]
- A valid FPO, including any child custody or support provision within a valid FPO, shall be accorded full faith and credit by the court and shall in general be subject to the same enforcement procedures and penalties as if it were issued in this state. [*MCL 600.2950j(1),(2)*; *PA 206*] A person who violates a FPO that is a conditional release order or a probation order issued by a court in a criminal proceeding is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of \$500.00, or both. [*MCL 600.2950m*; *PA 197*]

7. Domestic Violence Training. Friend of the Court Bureau training for friends of the court (FOCs), FOC employees, and domestic relations mediators, must now include training in the dynamics of domestic violence and in handling domestic relations matters that have a history of domestic violence. [*MCL 552.519(1)(b)*; *PA 193*] Effective 10/1/02

8. Enforceability of PPOs. The law now specifies that upon issuance a PPO is immediately enforceable anywhere in Michigan, and that upon service, a PPO may also be enforced by another state, an Indian tribe, or a territory of the United States. [*MCL 600.2950(9)*, *600.2950a(6)*; *PA 200, 201*] Effective 4/01/02

9. Language on PPOs. PPOs must now specify that if a respondent violates the order in a jurisdiction other than the state, the PPO is enforceable in that state. [*MCL 600.2950(11)(a)(iii)*, *600.2950a(8)(a)(iii)*; *PA 200, 201*] Effective 4/01/02

10. Fees and FPOs. The law now clearly indicates that a motion fee shall not be collected for a motion to dismiss a proceeding to enforce a FPO or a motion to show cause for a violation of a FPO. [*MCL 600.2529(e)*; *PA 202*] Effective 4/01/02

11. Minor PPOs. Minors under 10 years old now may not be named as a respondent in a minor PPO action. [*MCL 600.2950(27)(c)*, *600.2950a(25)(c)*, *712A.2(h)*; *PA 200, 201, 211*] Effective 4/01/02

12. UCCJEA. The Uniform Child Custody and Jurisdiction Enforcement Act (UCCJEA) has, in substantial part, been adopted by Michigan, and the Uniform Child Custody Jurisdiction Act (MCL 600.651-673) has been repealed. [PA 195] Effective 4/01/02

13. Reimbursement for PPO Contempt. The court may now order any person found guilty of criminal contempt for violation of a PPO or FPO to reimburse the state or a local unit of government for expenses incurred in relation to the relevant incident, including but not limited to expenses for an emergency response and expenses for prosecution. [MCL 769.1f(i); PA 208] Effective 4/01/02

Questions or Comments

Any questions or comments concerning this domestic violence legislative package or any implementation steps may be directed to:

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